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FEDERAL ELECTION COMMISSION 27 PH 7: 07 999 E Street, N.W. Washington, D.C. 20463 CELA

FIRST GENERAL COUNSEL'S REPORT

1 "	4	RAD Referral:	11L-27
2. 3		DATE RECEIVED:	October 14, 2011
		DATE ACTIVATED:	April 27, 2012
4 5			;
6	•	EXPIRATION OF SOL:	
		Earliest: Latest:	December 19, 2012 January 7, 2013
7 8		Lates	January 7, 2015
9	·		
10	SOURCE:	Internally Generated	
11			
12	RESPONDENTS:		William Vanderhook, in
13		his official capacity a	s treasurer
14		William A. Bennett	
15		Melanie Detloff	
16		Julie Ott	
17		James Wyckoff	
18 19	RELEVANT STATUTES		
20	AND REGULATIONS:	ANTENNA DETEC	`
21	AND REGULATIONS:	2 U.S.C. § 441a(a)(1)(A) 2 U.S.C. § 441a(f)	,
22 22		2 U.S.C. § 441f	
22 23	•	2 0.5.6. 9 4411	
24	INTERNAL REPORTS CHECKE	D: Disclosure Reports	
25			
26	FEDERAL AGENCIES CHECKE	D: None	
27		•	
28	I. INTRODUCTION		
29	The Reports Analysis Division	n ("P AT)") referred Scalice fo	or Congress and William
~2	Page Reports Pulary ats Division	u (1941) totettén épnitisé te	o Congress and winten
30	Vanderhook, in his official capacity a	s treasurer, (collectively "Co	mmittee"), to the Office of
31	General Counsel ("OGC") in connect	ion with a possible self-repor	ted violation of 2 U.S.C.
32	§ 441f. According to the referral, on	June 15, 2011, the Committee	contacted RAD to disclose
	· · · · · · · · · · · · · · · · · · ·		

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- its receipt of contributions in 2007 that reportedly had been made in the names of others, and
- 2 to inquire how to best make a sua sponte submission. RAD advised the Committee to file a
- 3 Miscellaneous Electronic Submission ("Form 99"), and it did so on June 21, 2011. In its
- 4 filing, the Committee disclosed that, on June 15, 2011, William Bennett notified the
- 5 Committee that he had reimbursed \$2,300 each to Julie Ott, Melanie Detloff, and James
- 6 Wyckoff for their contributions to the Committee. The Committee had received these
- 7 contributions more than three and a half years prior, on December 19, 2007, as part of a
- 8 fundraising event, and before Bennett's notice, had no reason to doubt their validity. The
- 9 Committee stated in the Form 99 that it intended to disgorge the contributions immediately to
- 10 the U.S. Treasury.

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OGC notified the Committee, Bennett, Ott, Detloff, and Wyckoff of the referral. The
Committee, Bennett, and Ott separately responded. In their responses, the Committee
essentially reiterated the information in its Form 99, Bennett acknowledged making the
reimbursements, and Ott confirmed that her boss, Bennett, had asked her and the other

individuals referenced in the referral notification letter to contribute to the Committee and

stated that he would reimburse them. Detloff and Wyckoff never responded.

As discussed in more detail below, we recommend that the Commission find reason to believe that William A. Bennett knowingly and willfully violated 2 U.S.C. §§ 441a(a)(1)(A) and 441f by making contributions in the names of others and making excessive contributions to the Committee. We recommend that the Commission enter into conciliation with Bennett prior to a finding of probable cause to believe and approve the attached Conciliation Agreement as to him. We further recommend that the Commission find no reason to believe that Scalise for Congress and William Vanderhook, in his official capacity as treasurer,

which informed the Commission that:

1	violated 2 U.S.C. §§ 441a(f) and 441f. We also recommend that the Commission dismiss this		
2	matter as to Julie Ott, Melanie Detloff, and James Wyckoff and send them letters of cautions		
3	concerning section 441f's prohibition of making a contribution in the name of another.		
4	II. FACTUAL AND LEGAL ANALYSIS		
5 6	A. Factual Summary		
7	The Committee is the principal campaign committee of Representative Stephen		
.8 .	Scalise, the successful 2008 candidate for the First Congressional District of Louisiana. The		
9:	contributions in issue relate to the March 8, 2008, Louisiana Republican special primary		
10	election. On its 2007 Year-End Report, the Committee identified Bennett, who also		
11	contributed \$2,300 on the same date as the other contributor respondents, as a Benetech		
12	executive and contributor Wyckoff as the owner of United Properties Development in New		
13	Jersey. There are no employers listed for contributors Ott and Detloff.		
14	According to public sources, Benetech is a limited liability company headquartered		
15	in New Orleans for which Bennett reportedly serves as President and Julie Ott as Chief		
16	Administrative Officer. See BENETECH, http://www.gobenetech.com/about/ (last visited		
17	June 19, 2012). Publicly available state marriage and Commission records reflect that		
18	Melanie Detloff was formerly Bennett's spouse. See ANCESTRY.COM,		
19	http://search.ancestry.com/search/db.aspx?dbid=1100 (Nevada Marriage Index, 1956-2005)		
20	(reporting marriage between Melanie R. Detloff and William A. Bennett on July 24, 2004);		
21	Romney for President, Inc., April 15 Quarterly Report at 344 (Apr. 13, 2007) (reattributing		
22	\$2,100 of contribution from William Bennett to his spouse, Melanie Bennett).		
23	On June 21, 2011, after consulting with RAD, the Committee filed its Form 99,		

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1 On December 19, 2007, the Scalise for Congress campaign 2 received four checks as part of a fundraising event. These checks 3 were in the amounts of \$2,300 each from William Bennett, Julie 4 Ott, James Wyckoff and Melanie Detloff. On June 15, 2011, the 5 campaign was notified by a donor, William Bennett, that he 6 reimbursed the other three individuals named above for their 7 respective contributions to the Scalise for Congress campaign. 8 Before this notification on June 15, 2011, the campaign never had 9 any information that would have led to question the validity of the 10 checks. The checks in question were reported on the FEC report 11 filed for the fourth quarter 2007. 12 13 The Committee further explained that it would disgorge all four of the contributions, totaling 14 \$9,200, to the U.S. Treasury. The Committee did so on June 21, 2011. See Scalise for 15 Congress, July 15 Quarterly Report at 96 (July 14, 2011). In response to RAD's inquiry, the 16 Committee responded that it had no additional information regarding the matter beyond its 17 June 21, 2011, statement. Referral at 2. 18 In response to the OGC's notice of referral, the Committee, Ott, and Bennett each 19 submitted separate one-page responses. The Committee's response reiterates the 20 information it provided previously; on their face the contributions did not appear improper, and the Committee "swiftly took action to remedy the situation" upon learning from Bennett 21 22 that the contributions were made in the names of others by disgorging the contributions. See 23 Committee Resp. Neither Detloff nor Wyckoff submitted a response. 24 Ott's response states that Bennett, her "boss at the time," asked her and the other 25 individuals cited in the referral, "to write a check in the amount of \$2,300 made payable" to 26 the Committee, and that Bennett had stated "that he was at the maximum individual 27 contribution [limit] and needed us to contribute." Ott Resp. Ott reported Bennett stated that 28 "he would reimburse each of us for the contribution." Id. Ott further asserts that she "did

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not have knowledge of how campaign contributions worked and was unaware of what was allowed and not allowed." *Id.*

In his Response, submitted through counsel, Bennett admits the violation but essentially denies he acted with willful intent. Specifically, the Response explains that the "issue came to light as a result of Mr. Bennett contacting [the Committee] and informing them that he had reimbursed certain individuals for contributions made to the Committee." Bennett Resp. He claims he provided that information "immediately upon learning that he may have violated the Federal Election Campaign Act." Id. He further states that he "accepts responsibility for his actions and wants to resolve this matter amicably and as expeditiously as possible. His position is one of remorse and wants to cooperate fully to get this matter resolved." Id.

B. Legal Analysis

1. William A. Bennett

The Federal Election Campaign Act of 1971, as amended (the "Act"), provides that no person shall make a contribution in the name of another person. 2 U.S.C. § 441f. During the 2008 election cycle, the Act limited the amount a person could contribute to a candidate for federal office or the candidate's authorized political committee to \$2,300 per election.

2 U.S.C. § 441a(a)(1)(A).

Based on the available information, it appears that Bennett reimbursed the three conduit respondents for contributions to the Committee for the 2008 special primary election, constituting three separate violations of 2 U.S.C. § 441f. In addition, since Bennett himself made a \$2,300 contribution to the Committee for the same election, when that contribution is aggregated with the amounts he contributed in the names of others, he

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1 exceeded the applicable contribution limits by \$6,900 for that election, a violation of

2 2 U.S.C. § 441a(a)(1)(A).

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Moreover, and notwithstanding his Response, it appears that Bennett's conduct may have been knowing and willful. See 2 U.S.C. § 437g(a)(5)(B). The knowing and willful standard requires knowledge that one is violating a legal prohibition -- that is, that "acts were committed with full knowledge of all of the relevant facts and a recognition that the action is prohibited by law 122 Cong. Rec. H3778 (daily ed. May 3, 1976); see also AFL-CIO v. FEC, 628 F.2d 97, 98, 101-02 (D.C. Cir. 1980) (noting that a "willful" violation includes "such reckless disregard of the consequences as to be equivalent to a knowing, conscious, and deliberate flaunting of the Act"). The evidence need not show that the defendant "had specific knowledge of the regulations" or "conclusively demonstrate" a defendant's "state of mind," if there are "facts and circumstances from which the jury reasonably could infer [the defendant) knew her conduct was unauthorized and illegal." United States v. Hopkins, 916 F.2d 207, 213 (5th Cir. 1990) (quoting United States v. Bordelon, 871 F.2d 491, 494 (5th Cir. 1989)). Applying this standard, there is information to suggest Bennett knew his conduct was unauthorized and illegal. Bennett's Response states that he notified the Committee immediately upon learning he may have violated the Act — suggesting that he did not know it was illegal to make conduit contributions at the time he made them. Nonetheless, information provided by another respondent suggests there is reason to believe Bennett reimbursed the contributions in order to circumvent his known personal contribution

limitation. According to Respondent Ott, Bennett explained "that he was at the maximum.

- 1 individual contribution [limit] and needed us to contribute." Further, Bennett purportedly
- 2 asked each of the conduits to contribute at the maximum individual level. Bennett's
- 3 apparent effort to circumvent the individual contribution limits by using the conduits to
- 4 make excessive contributions to the Committee suggests that Bennett intended to avoid a
- 5 known legal obligation. Consequently, we recommend that the Commission find that there
- 6 is reason to believe Bennett knowingly and willfully violated 2 U.S.C. §§ 441a(a)(1)(A) and
- 7 441f.³

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2. The Conduits - Ott, Detloff and Wyckoff

9 The Act provides that "no person shall make a contribution in the name of another 10 person or knowingly permit his name to be used to effect such a contribution." 2 U.S.C. 1.1 § 441f. Ott asserts that Bennett asked her and the other conduits to contribute and promised 12 to reimburse them. Off suggests that Bennett's status as "her boss" may have influenced her 13. decision to participate in the scheme. Further, Respondent Detloff may have been Bennett's 14 wife at the time of the reimbursement scheme. As to Respondent Wyckoff, it appears that he 15 owns a contracting firm, and reportedly served as a consultant to Benetech. See David 16 Hammer, Businessman Broke Election Laws in Contributions to Many Landrieu, Steve

Scalise, Times Picayune, June 16, 2011 ("Election Laws"), available at

Bennett was not inexperienced with making contributions for federal candidates. Before making the December 19, 2007, contributions at issue here, Bennett had contributed \$1,000 to the Committee to Re-Elect Bobby Jindal on March 22, 2005. He also had contributed \$4,200 to Romney for President on January 8, 2007, \$2,100 of which was subsequently reattributed to his spouse, Melanie Bennett, on March 1, 2007. See Romney for President, Inc., April 15 Quarterly Report at 344 (Apr. 13, 2007).

In addition to his potential liability under the Act, Bennett pleaded guilty on October 11, 2011, to conspiracy to commit federal program bribary in relation to a \$30,000 kickback payment involving Benetech's construction of a jail facility. David Hammer, Businessman Aaron Bennett Pleads Guilty to Bribing Plaquemines Parish Sheriff, N.O. TIMES PICAYUNE, Oct. 14, 2011, available at http://blog.nola.com/crime_impact/print.html?entry=/2011/10/businessman_maron_bennett-plea.html. Bennett is scheduled to be sentenced October 31, 2012. See Renotice of Sentencing, United States v. Bennett, Crim. No. 11-253 (E.D. La May 18, 2012), available at <a href=https://ecf.laed.uscourts.sov/doe1/08515891030.

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- 1 http://www.nola.com/politics/index:ssf/2011/06/businessman_broke-election_law.html. We
- 2 have no information that Ott, Detloff, and Wyckoff actively participated in the
- 3 reimbursement scheme, and it appears they simply acted as conduits. In fact, the subject
- 4 contribution is apparently Wyckoff's sole federal contribution to date

The Commission's usual practice is to take no further action or not to make findings concerning lower level conduit employees, spouses, and family members. We see no reason to deviate from that same approach here. See, e.g., MUR 6465 (Fiesta Bowl) (open matter) (Commission took no action as to low-level employees where it appeared their participation was at the direction of other officers); MUR 5955 (Valdez) (Commission took no further action as to conduit respondents, who were corporate officers who reported to Valdez); MUR 5871 (Noe) (Commission made no findings and took no action as to conduits who where subordinates/employees or family member conduits, except admonishment); MUR 5504 (Karoly) (Commission took no action as to reimbursed spouses); MUR 5666 (MZM) (Commission took no further action as to less-senior employee conduits). Therefore, we recommend that the Commission dismiss this matter as to Ott, Detloff, and Wyckoff and send letters of caution to them regarding compliance with 2 U.S.C. § 441f.

3. The Committee

The Act makes it unlawful for any candidate, political committee, or other person to knowingly accept or receive contributions in the name of another. 2 U.S.C. § 441f. The Act

A press account states that Bennett may have also reimbursed contributions to the political committee of Mary Landrieu. See Hammer, Election Laws, supra (reporting that, around the "end of March 2008, Bennett's mother, Martha Bennett, gave Landrieu \$2,300; Melanie Bennett gave the senator \$2,200; and Off donated \$500 to Landrieu's re-election effort. Bennett said he paid them all back."). Absent tolling, the statute of limitations on the Scalise contributions will expire December 19, 2007, for the Committee and conduits and January 7, 2013, for Bennett. Consequently, we conclude it would not be prudent to seek authorization to investigate Bennett's alleged reimbursement of contributions to the Landrieu committee.

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1	also prohibits any candidate or political committee from knowingly accepting any
·2:	contribution in violation of the contribution limits set forth in section 441s 2 TES

3 § 441a(f).

Ļ	Although the Committee accepted the contributions by Ott, Detloff, and Wyckoff, it
ÿ	has represented that it had no reason to doubt the validity of the contributions before Bennett
5:	notified them that he had reimbursed those contributions. We are aware of no information to
1	the continuty. We therefore recommend that the Commission find no reason to believe that
3 1	Scalise for Congress and William Vanderhook, in his official capacity as treasurer, violated

9 2 U.S.C. §§ 441a(f) and 441f.

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IV. RECOMMENDATIONS

- 1. Open a MUR.
- 2. Find reason to believe that William A. Bennett knowingly and willfully violated 2 U.S.C. §§ 441a(a)(1)(A) and 441f.
- 3. Find no reason to believe that Scalise for Congress and William Vanderhook, in his official capacity as treasurer, violated 2 U.S.C. §§ 441a(f) and 441f.
- 4. Dismiss this matter as to Julie Ott, Melanie Detloff, and James Wyckoff, and send them letters of caution.
- 7. Approve the attached Factual and Legal Analyses.
- 8. Approve the appropriate letters.
- 9. Close the file as to Scalise for Congress and William Vanderhook, in his official capacity as treasurer, Julie Ott, Melanie Detloff, and James Wyckoff.

June 27, 242

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